
A BILL FOR AN ACT

RELATING TO VOTING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In the 2004 presidential election, 19,117 (21.8
2 per cent) voters cast absentee ballots in Hawaii county, and in
3 the 2008 presidential election, a record number of voters in
4 Hawaii county cast absentee ballots (29.1 per cent). This trend
5 demonstrates that more voters are finding that voting by mail is
6 easier than voting at the polls on the day of the election.

7 Other states, such as Oregon and Colorado, have used voting
8 by mail as the exclusive method for casting ballots. From their
9 experiences with voting by mail systems, these states have found
10 that voting by mail:

11 (1) Increases voter participation because it makes it
12 easier to vote;

13 (2) Is more convenient for voters because weather, natural
14 disasters, driving, gasoline prices, work, child care,
15 illness, and long lines are no longer an issue when
16 voting;



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- 1 (3) Increases public confidence in the accuracy and
2 fairness of election results because the paper ballot
3 is verifiable and votes may be audited;
- 4 (4) Reduces fears of fraud because each county office of
5 elections is required to verify the signature of every
6 voter before the ballot is opened or counted;
- 7 (5) Improves accuracy in the general county voter register
8 because mailed ballots are not forwarded by the post
9 office but are returned to the county office of
10 elections, thus helping to keep the general county
11 voter register accurate;
- 12 (6) Maintains uniformity because of the centralized
13 supervision of ballot processing;
- 14 (7) Allows voters to review their ballots for a longer
15 period of time to study their choices and research any
16 questions on candidates or issues before casting their
17 votes; and
- 18 (8) Is cost effective because fewer precinct officials and
19 consequently, less training of precinct officials and
20 captains is required and costs to lease for expensive
21 electronic equipment is lower.



1 The purpose of this Act is to establish a voting by mail
2 pilot program in the county of Hawaii, which shall be the
3 exclusive means of casting a ballot for a federal, state, and
4 county primary, general, or special elections, beginning in 2010
5 and concluding with the general election of 2014.

6 SECTION 2. **Definitions.** As used in this chapter, unless
7 the context clearly requires otherwise:

8 "Ballot" has the same meaning as in section 11-1.

9 "Ballot package" means a nonforwardable, mailed package
10 containing an official ballot, a return identification envelope,
11 a secrecy envelope, a voters education pamphlet, instructions on
12 voting by mail, and any other information that the county clerk
13 deems appropriate.

14 "Chief election officer" has the same meaning as in section
15 11-1.

16 "County" has the same meaning as in section 11-1.

17 "Dropsite" means a location where a ballot may be returned
18 in person without postage.

19 "Election" shall have the same meaning as defined in
20 section 11-1.



1 "Official observer" means an individual designated by the
2 chief election officer of the state or the county clerk to
3 observe the election process in the counting center.

4 "Statement in opposition" means a statement opposing a
5 ballot question or measure that contains no more than two
6 hundred fifty words.

7 "Statement in support" means a statement in support of a
8 ballot question or measure that contains no more than two
9 hundred fifty words.

10 "Voter" has the same meaning as in section 11-1.

11 "Voter education pamphlet" means a printed insert provided
12 by the county clerk that contains a concise, impartial
13 explanation of each question or ballot measure and its major
14 effects, and one pro statement and one statement in opposition
15 for each ballot question or measure. A voter education pamphlet
16 shall not contain any statement regarding any candidate for
17 elected office.

18 "Voting by mail" means an election conducted exclusively by
19 mail.

20 SECTION 3. **Voting by mail.** (a) A voting by mail election
21 shall be conducted by the chief election officer as a pilot
22 project for all federal, state, and county primary, general, and



1 special elections based on the State of Oregon vote by mail
2 program for the county of Hawaii as the exclusive method for
3 casting ballots in the county of Hawaii beginning with the 2010
4 primary election and continuing through all elections including
5 the general election in 2014.

6 (b) The chief election officer shall provide notice
7 pursuant to section 1-28.5 no later than sixty days before an
8 election in two daily newspapers in the county of Hawaii, that a
9 voting by mail election shall be conducted and the only
10 precincts open on the day of the election shall be the multiple
11 county offices of elections sites. This information also shall
12 be included in the ballot package that shall be mailed to
13 voters.

14 SECTION 4. **Procedures for conducting voting by mail.** (a)
15 Except as provided in subsections (b) and (c), the county clerk
16 shall mail by nonforwardable mail to each registered voter
17 between thirty-five days and twenty-one days before the date of
18 the election:

- 19 (1) An official ballot;
20 (2) A return identification envelope, on which the
21 following information shall be printed:



- 1 (A) The monetary amount of postage to be applied to
- 2 the envelope by the voter and the notification,
- 3 "To return ballot by mail, voter must apply
- 4 \$. postage."
- 5 (B) A bar code containing sufficient voter
- 6 information from the general county voter
- 7 register to identify the voter without opening
- 8 the envelope, allowing the county clerk to match
- 9 the voter to the general county voter register
- 10 and verify that the signature of the voter is
- 11 authentic;
- 12 (C) A notification printed near the signature box
- 13 described in subparagraph (D) stating: "WARNING!
- 14 Signing another person's signature to this
- 15 envelope is a class C felony."; and
- 16 (D) A signature box printed near the statement, "I
- 17 hereby affirm that I am the registered voter who
- 18 is casting this ballot. I am a resident of the
- 19 precinct and representative district as indicated
- 20 on the envelope. I understand that signing
- 21 another person's signature is a class C felony."
- 22 (3) A secrecy envelope;



- 1 (4) An instruction sheet on how to complete voting by mail
2 that includes the instruction that the ballot shall be
3 returned to a designated dropsite or a county office
4 of elections by 6:00 p.m. on election day or the
5 ballot will not be counted; and
- 6 (5) A voter's pamphlet, as provided for by section -4.
- 7 (b) If the county clerk determines that a voter does not
8 receive daily mail service from the United States Postal
9 Service, the county clerk shall mail by another nonforwardable
10 mail service the same ballot package described in subsection (a)
11 to the voter between thirty-five and twenty-one days before the
12 date of the election.
- 13 (c) If the voter requests that a ballot be mailed outside
14 of the State, the county clerk shall mail by nonforwardable mail
15 the ballot package described in subsection (a) to the voter
16 between thirty-five and twenty-one days before the election.
- 17 (d) Upon receipt of a ballot by mail, the voter shall:
- 18 (1) Mark the ballot;
- 19 (2) Sign the return identification envelope supplied with
20 the ballot; and
- 21 (3) Comply with the instructions provided with the ballot.



1 (e) The voter may return the marked ballot to the county
2 office of elections by United States Postal Service or by
3 depositing the ballot at any dropsite. All postage for ballots
4 returned by the United States Postal Service shall be provided
5 by the voter.

6 (f) A dropsite shall be located at each county clerk's
7 office. There shall be additional dropsites at locations
8 throughout the county as determined by the county clerk. There
9 shall be one additional dropsite for every twenty thousand
10 voters registered in that county.

11 SECTION 5. **Voter education pamphlet.** (a) The county
12 clerk shall produce and distribute a voter education pamphlet
13 that shall contain:

- 14 (1) A summary of each ballot question or measure;
15 (2) A concise, impartial explanation of each ballot
16 question or measure and its major effects;
17 (3) A concise statement in support of each ballot question
18 or measure; and
19 (4) A concise statement in opposition to each ballot
20 question or measure.

21 (b) The statement in support shall be provided by a
22 person, organization, council member, state, or group that



1 initiated or supported the ballot question or measure. Only one
2 statement in support shall be allowed for each ballot question
3 or measure.

4 (c) The statement in opposition may be provided by a
5 person, organization, council member, state, or group that
6 opposed the ballot question or measure. A maximum of one
7 statement in opposition shall be allowed for each ballot
8 question or measure. If no person, organization, council
9 member, state, or group submits a statement in opposition by the
10 deadline established by the chief election officer, the voter
11 education pamphlet may state that "No statement in opposition
12 was provided." If more than one statement in opposition is
13 received by the county clerk by the deadline established by the
14 chief election officer, the prosecuting attorney for the county
15 of Hawaii shall appoint three registered voters to choose the
16 single statement in opposition that will be included in the
17 voter education pamphlet.

18 SECTION 6. **Public notice of mailing.** Public notice of the
19 date that ballot packages shall be mailed shall be published in
20 a minimum of two daily newspapers in the county of Hawaii, at
21 least one of which shall be a newspaper of general circulation



1 in the county on the twenty-eighth and twenty-first day prior to
2 the day of election.

3 SECTION 7. **Undeliverable ballot packages.** (a) Ballot
4 packages shall not be forwarded or delivered to an address other
5 than the one in the general county voter register established
6 and maintained by the county clerk.

7 (b) A ballot package that is mailed and is determined to
8 be undeliverable to the voter at the address in the voter
9 register because of the voter's death, refusal of any person at
10 the address to accept the package, or any other reason, shall be
11 returned to the county clerk.

12 SECTION 8. **Help America Vote Act.** The county clerk shall
13 have a direct record electronic voting machine to assist those
14 voters qualifying under the Help America Vote Act.

15 SECTION 9. **Replacement ballots.** (a) A voter may obtain a
16 replacement ballot from the county clerk if the original mailed
17 ballot is destroyed, spoiled, lost, or otherwise not received.
18 To obtain a replacement ballot, the voter shall complete and
19 sign a request form. The request for a replacement ballot may
20 be made by mail, in person, or by other means in accordance with
21 rules adopted by the chief election officer pursuant to chapter
22 91.



1 (b) Upon receipt of a request for a replacement ballot,
2 the county clerk, or designee appointed by the county clerk,
3 shall:

4 (1) Verify the registration of the voter and check the
5 database to ensure that a ballot has not been returned
6 by the voter;

7 (2) Invalidate the original ballot before the replacement
8 ballot is issued;

9 (3) Make a notation in the database that the voter has
10 requested a replacement ballot;

11 (4) Mark the return identification envelope so that it may
12 be identified as containing a replacement ballot; and

13 (5) Issue a replacement ballot.

14 (c) Upon receipt of a voted replacement ballot, the county
15 clerk or designee shall verify that a completed and signed
16 replacement ballot request form has been received. If a proper
17 request has been received by the county clerk, the ballot shall
18 be processed. If the replacement ballot request form is not
19 complete, signed by the voter, or not received by the county
20 clerk, the ballot shall not be processed.



1 SECTION 10. **Verification of signatures.** (a) Verification
2 of signatures may begin immediately from the time that ballots
3 are mailed to registered voters.

4 (b) Signatures shall be verified in accordance with rules
5 adopted by the chief election officer pursuant to chapter 91,
6 which shall include by comparing the voter's signature on the
7 return ballot identification envelope to the signature of the
8 voter's registration affidavit. Signature verification may be
9 made electronically, visually, or by both methods.

10 (c) If the signature is verified, the ballot shall be
11 received and processed.

12 (d) If the signature does not match the voter registration
13 affidavit, the ballot shall be invalid.

14 (e) If the return identification ballot envelope is
15 unsigned, it shall be returned to the voter for signature. A
16 ballot shall not be deemed received until the signed envelope is
17 returned.

18 (f) Automated reports and computer programs may be used to
19 create a master list log and track reissued, replacement, and
20 challenged ballots.

21 (g) Reissued and replacement ballots shall be identified
22 to ensure that only the correct ballot is counted.



1 (h) Challenged ballots shall be processed separately.

2 SECTION 11. **Counting of ballots.** (a) Preparation for the
3 counting of ballots may begin at any time before the day of the
4 election. Advance preparation may include but shall not be
5 limited to the removal of the outer return identification
6 envelope and sorting by precinct. The preparation shall not
7 include removal of the secrecy envelope until seven days prior
8 to the day of the election.

9 (b) Arrangements shall be made to ensure that official
10 observers shall be present during all ballot processes, in
11 accordance with section 16-45, Hawaii Revised Statutes.

12 (c) In the presence of official observers, ballots shall
13 be counted beginning on the day of the election. Ballots shall
14 be handled and counted in accordance with the rules adopted by
15 the chief election officer pursuant to chapter 91, Hawaii
16 Revised Statutes.

17 (d) A ballot shall be counted only if:

18 (1) The ballot is received at an official dropsite no
19 later than 6:00 p.m. on the day of election;

20 (2) The ballot is received by mail by the county clerk no
21 later than 6:00 p.m. on the day of the election;



1 (3) The ballot is received in the return identification
2 envelope; and

3 (4) The signature of the voter is verified pursuant to
4 section 10.

5 (e) The county clerk may refuse to accept a ballot after
6 6:00 p.m. on the day of the election or suspend the counting of
7 ballots only in an emergency situation and with the prior
8 approval of the chief election officer.

9 SECTION 12. **Contests for cause.** Contests for cause may be
10 filed in accordance with sections 11-172, 11-173.5, and 11-
11 174.5, Hawaii Revised Statutes.

12 SECTION 13. **Certification of the election.** The election
13 shall be certified in accordance with section 11-155, Hawaii
14 Revised Statutes.

15 SECTION 14. **Election fraud and voter fraud.** (a) Sections
16 19-3 and 19-3.5, Hawaii Revised Statutes, shall apply to this
17 Act.

18 (b) Election fraud and voter fraud under and for purposes
19 of this section shall be class C felonies.

20 SECTION 15. Section 11-91.5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " [{} §11-91.5 [{}] **Federal, state, and county elections by**
 2 **mail.** (a) Any federal, state, or county election held other
 3 than on the date of a regularly scheduled primary or general
 4 election may be conducted by mail.

5 (b) The chief election officer shall determine whether a
 6 federal or state election, other than a regularly scheduled
 7 primary or general election, may be conducted by mail or at
 8 polling places.

9 (c) The county clerk shall determine whether a county
 10 election, held other than on the date of a regularly scheduled
 11 primary or general election, may be conducted by mail or at
 12 polling places. An election by mail in the county shall be
 13 under the supervision of the county clerk.

14 (d) The chief election officer shall adopt rules pursuant
 15 to chapter 91 to provide for uniformity in the conduct of
 16 federal, state, and county elections by mail.

17 (e) Any federal, state, county or special election in the
 18 county of Hawaii may be conducted by mail as provided in Act
 19 _____ , Session Laws of Hawaii 2009."

20 SECTION 16. There is appropriated out of the general
 21 revenues of the State of Hawaii the sum of \$ _____ or so
 22 much thereof as may be necessary for fiscal year 2009-2010 and



1 the same sum or so much thereof as may be necessary for fiscal
2 year 2010-2011 for the purpose of implementing and administering
3 the voting by mail pilot program in the county of Hawaii.

4 The sums appropriated shall be expended by the department
5 of accounting and general services for the purposes of this Act.

6 SECTION 17. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 18. This Act shall take effect on July 1, 2009.

9

INTRODUCED BY:

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JAN 28 2009



Report Title:

Voting; Voting by Mail

Description:

Establishes a vote by mail election pilot program for all federal, state, and county elections in the county of Hawaii. Makes an appropriation.

